

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

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JUN 12 2000

TIMOTHY R. WALBRIDGE, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OKLAHOMA

IN RE:

TURNER, ANDREW JAMES and
TURNER, HEATHER PHILLIPS,

Debtor(s)

STEVEN W. SOULÉ, TRUSTEE
FOR THE ESTATE OF ANDREW
JAMES TURNER AND HEATHER
PHILLIPS TURNER,

Plaintiff,

v.

ANDREW JAMES TURNER,
HEATHER PHILLIPS TURNER,
GLADYS LAHOMA GARRETT and
RICHARD ALLEN GARRETT, SR.,

Defendants.

Case No. 98-2734-M
(Chapter 7)

Adversary No. 99-0218-M

~~TM~~
CONSENT JUDGMENT

NOW on this ____ day of June, 2000, this matter comes before the undersigned United States Bankruptcy Judge for entry of this ~~Consent~~TM Judgment. The Court having reviewed all of the files and records herein finds:

1. This Court has jurisdiction in this adversary proceeding (the "Adversary") pursuant to 28 U.S.C. §§ 1334(b) and 157(b).
2. Venue is proper in this Court pursuant to 28 U.S.C. 1409(a).
3. This case was commenced by the filing of a voluntary petition for relief by Debtors Andrew James and Heather Phillips Turner (collectively referred to as the "Debtors") under Chapter

7 of the United States Bankruptcy Code (the "Code") on July 9, 1998 (the "Petition Date"). By Order filed September 17, 1998, this case was converted to a proceeding under Chapter 13 of the Code at the Debtors' request. On January 26, 1999, the case was converted back to a Chapter 7 proceeding at the Debtors' request.

4. Steven W. Soulé is the duly appointed and authorized Chapter 7 Bankruptcy Trustee (the "Trustee") for the above-entitled bankruptcy proceeding.

5. As of the Petition Date, the Debtors claimed a 1995 Ford Windstar Van, VIN # 2FMDA514XSBD15978 (the "Van") as an asset of the estate.

6. The Van was being sold by Defendant Gladys Lahoma Garrett to the Debtors and was titled in the name of Defendants Richard Allen Garrett, Sr. and Debtor Heather Turner.

7. The Debtors claim that they were purchasing the Van from Defendant Gladys Lahoma Garrett.

8. Defendant Gladys Lahoma Garrett never perfected her security interest in accordance with Okla. Stat. tit. 12A § 9-313(d). As a result, she held an unperfected security interest in the Van.

9. Defendant Gladys Lahoma Garrett is an unsecured creditor with respect to the Van. As such, the Trustee, pursuant to 11 U.S.C. § 544(a)(1) may avoid Defendant Gladys Lahoma Garrett's unperfected lien in the Van.

10. In addition, pursuant to 11 U.S.C. § 551, the Trustee assumes the status of a lien creditor whose interest attached as of the date of the avoided transfer, in order to preserve lien priority for the benefit of the estate and the unsecured creditors. Thus, by virtue of Okla. Stat. tit. 12A, § 9-312(5)(a) and 11 U.S.C. § 551, the Trustee has priority over Defendant Richard Allen Garrett, Sr.'s claimed interests in the Van.

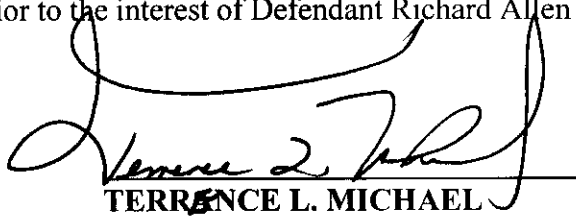
11. The Trustee has already taken a default judgment against the Defendants Andrew James Turner and Heather Phillips Turner in this proceeding.

12. Subsequent to the filing of this case, the Trustee learned that Defendant Gladys Lahoma Garrett had passed away. No probate has been filed on her behalf. Betty Garrett is signing this judgment as personal representative/executor of the estate of Gladys Lahoma Garrett.

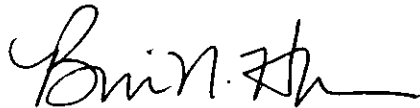
13. Defendants have been advised to seek counsel in this matter and have decided to proceed without counsel.

IT IS THEREFORE ORDERED that (A) Defendant Gladys Lahoma Garrett's lien on the Van is avoided; (B) said lien is preserved for the benefit of the estate and the unsecured creditors and (C) the Trustee's interest in the Van is superior to the interest of Defendant Richard Allen Garrett, Sr.

Dated: June 9, 2000


TERRENCE L. MICHAEL
UNITED STATES BANKRUPTCY JUDGE

APPROVED:



Steven W. Soule, OBA #13781
Bonnie N. Hefner, OBA #18392

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ATTORNEYS FOR TRUSTEE

Richard Allen Garrett, Sr., Pro Se Defendant



Betty Garrett, Personal Representative for the Estate
of Gladys Lahoma Garrett, Pro Se Defendant